

CLERK'S COVER PAGE

Please note that this en banc motion is submitted pursuant to Fed. R. App. P. 35 and the Eleventh Circuit's Internal Operating Procedures, which require that all such motions be circulated to the full Court. Appellant respectfully requests confirmation of docketing and reserves the right to seek further review should this filing not be properly circulated or acknowledged in accordance with those rules.



TO:

Clerk of Court

U.S. Court of Appeals for the Eleventh Circuit

56 Forsyth Street, N.W.

Atlanta, GA 30303

FROM:

Mario Mirabal

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Miami Beach, FL 33140

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RE: Emergency Motion for En Banc Review

Filed in:

25-10858, 25-10862, 25-11120, 25-11182, 25-11183, 25-11254, and
25-11752

ENCLOSED:

Original signed copy of Appellant's Emergency Motion for En Banc Review

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En Banc

Addendum

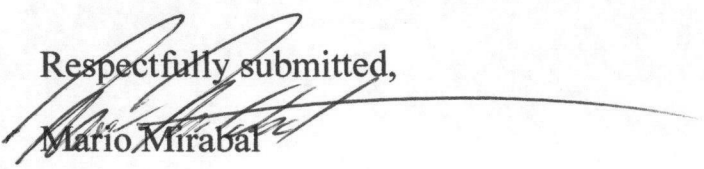
Certificate of Service and Compliance

Certificate of Interested Persons (CIP)

FILING INSTRUCTION:

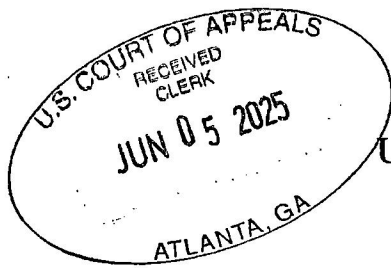
Please docket this motion in each of the above seven cases. **pursuant to Fed. R. App. P. 35 and the Eleventh Circuit's Internal Operating Procedures**

Respectfully submitted,


Mario Mirabal

Pro Se Appellant

June 2, 2025



UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Case Nos.:

25-10858, 25-10862, 25-11120, 25-11182, 25-11183, 25-11254, and
25-11752

Mario Mirabal,

Pro Se Appellant / Petitioner

v.

KP Investments Miami LLC,

Deutsche Bank National Trust Company, et al.

Appellees / Respondents

EMERGENCY MOTION FOR EN BANC REVIEW
TO PRESERVE JURISDICTION, CORRECT CLERK-LEVEL
SUPPRESSION,
AND RESOLVE INCONSISTENT TREATMENT OF FRAUD-ON-THE-
COURT FILINGS

Submitted: June 2, 2025

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Addendum

Certificate of Compliance

Certificate of Service

Certificate of Interested Persons

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Submitted: June 2, 2025

I. INTRODUCTION

Appellant respectfully moves this Court for en banc review to preserve its jurisdiction and correct systemic procedural suppression, including clerk dismissals, omitted docket entries, and inconsistent treatment of Rule 60(d)

(3) fraud-on-the-court filings. This motion arises from seven related Eleventh Circuit matters that share common facts and issues, yet have been procedurally fractured through inconsistent docketing, selective rejection of filings, and the unexplained labeling of legally distinct filings as “duplicates.”

II. PROCEDURAL BREAKDOWN OF SYSTEMIC SUPPRESSION AND JURISDICTIONAL FRAGMENTATION

A. Rule 60(d)(3) Motions: Same Filings, Different Fates

All Rule 60(d)(3) motions were mailed May 13, 2025, with identical content tailored to each docket. Yet:

Docketed:

25-10858 – Entry-19 (entered May-23)

25-10862 – Entry 19 (entered May 20 after dismissal)

25-11120 – Entry 23

25-11182 – Entry 19

25-11183 – Entry 16

Suppressed:

25-11254 – Not entered at all

Identical filings received together were arbitrarily divided between those entered and those ignored. No clerk explanation was given.

B. May 12 Judicial Notice: Received Before Panel Dismissal

Appellant’s “Supplemental Request for Judicial Notice and Reservation of Rights Re: Fraud Upon the Court,” with an 83-count exhibit, was mailed May 12 and delivered May 13 — the same day the Eleventh Circuit dismissed 25-10862 (Entry 15).

Although the Rule 60 motion in that case was still in transit, the fraud record was in the court’s possession. Either the panel was denied access to it or dismissed the case without review.

C. Rule 27 Emergency Motions: Arbitrarily Processed

25-10862 – Entry 20 (docketed May 22); Clerk refused to act citing “mandate not issued”

25-10858 – Mailed May 30; not docketed as of June 2

Other cases (11120, 11182) – Rule 27 motions mailed in parallel; not docketed

One motion entered, others buried — despite uniform mailing and identical content.

D. CIP Filings: Simultaneous Acceptance and Rejection

25-11120:

Entry 28: CIP entered (May 29)

Entry 26: Clerk denied docket motion same day citing “missing CIP”

25-11182:

Entry 24: Certificate of Service for CIP entered

Entry 22: Motion denied, again citing “missing CIP”

25-11183: No issues

The Clerk's Office entered and rejected the same document in the same docket. This cannot be reconciled as procedural oversight.

E. Mandamus Petitions in 25-11752: Clerk Consolidation Without Order

May 17: Six distinct petitions mailed

May 22: Docket 25-11752 opened

Only five entered, one omitted

Others labeled “duplicates”

No order issued under FRAP 21

**Grouping was not requested by Appellant and no consolidation order exists.
This exceeds the Clerk’s authority and reflects suppression by
reclassification.**

F. Clerk-Led Dismissals Despite Pending Jurisdictional Filings

**25-10858: Rule 60 filed May 15 (Entry 19); Clerk dismissed May 27 (Entry
24); no panel assigned**

**25-10862: Judicial notice received May 13; Rule 60 in transit; dismissal
issued by panel same day**

Dismissals occurred while fraud records were either pending or already in

hand. This violates Gonzalez, Sunshine, and Hazel-Atlas standards.

G. Docket Misassignment in 25-11182

Entry 21 sought correction of the district court origin; Entry 22 rejected it based on CIP issues already resolved in Entry 24. The case remains misaligned with the wrong originating proceeding.

III. LEGAL STANDARD FOR EN BANC REVIEW

Under Federal Rule of Appellate Procedure 35(a)(1), en banc review is warranted to maintain uniformity or address a question of exceptional importance. The Court's integrity and authority are implicated when fraud-on-the-court filings are suppressed and dismissed by administrative action rather than adjudication.

Key Authority:

Gonzalez v. Crosby, 545 U.S. 524 (2005)

Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238 (1944) -----

In re Sunshine Jr. Stores, Inc., 456 F.3d 1291 (11th Cir. 2006)

IV. RELIEF REQUESTED

Appellant respectfully asks this Court to:

Reopen Case No. 25-10858 and vacate the Clerk's dismissal

Recall any mandate issued in Case No. 25-10862

Preserve jurisdiction in all listed appeals

Refer the matter to an en banc or coordination panel to address suppression, misclassification, and procedural sabotage

Enter a protective stay across cases pending jurisdictional restoration

V. CONCLUSION

This motion is not merely procedural. It defends the right to be heard when fraud has tainted the process. The Clerk's discretionary interference has denied Appellant his day in court and fractured the integrity of interconnected appeals.

The Eleventh Circuit must now act to restore judicial review and halt the unauthorized administrative nullification of fraud claims.

VI. INSTITUTIONAL AVOIDANCE AND THE CONSEQUENCES OF JUDICIAL SILENCE

Appellant respectfully submits that this case has evolved beyond isolated procedural error or civil dispute. It has become a documented example of institutional avoidance—where courts, both state and federal, have been repeatedly confronted with concrete evidence of fraud upon the court, systemic process abuse, and constitutional violations, yet have chosen to abstain from substantive intervention.

This silence has enabled derivative actors to exploit the legal system in furtherance of unlawful objectives, at the direct expense of Appellant's constitutional rights and homestead protection.

At every level of litigation, Appellant has invoked proper mechanisms: Rule 1.540(b) in state court, adversary proceedings and injunctive motions in bankruptcy, emergency notices to the Eleventh Circuit, and sealed federal filings under protected statutes. The record reflects diligence, procedural conformity, and the timely invocation of every lawful remedy available. Yet

in return, Appellant has been met not with adjudication, but with evasion:

State judges have refused to rule on fraud motions or to schedule hearings unless prompted by opposing counsel.

The district court refused to allow sealed constitutional submissions into the record and issued a final order of dismissal with prejudice, all while jurisdictional objections and procedural conflicts remained unresolved.

A federally contested title—acquired during active bankruptcy protection and concealed from both Judge Bokor and Judge Brinkley—has been allowed to form the basis of new litigation, under color of law, without review of its origin.

The Eleventh Circuit, to date, has not intervened despite multiple filings outlining procedural manipulation, interference with appellate jurisdiction, and the misuse of state process under a clouded deed.

~~This pattern is not mere oversight. It is a systemic failure to confront what is now plainly visible: a judicial apparatus that, when confronted with a national mortgage entity's misrepresentations and a coordinated title transfer in violation of bankruptcy law, has opted for procedural closure over substantive accountability.~~

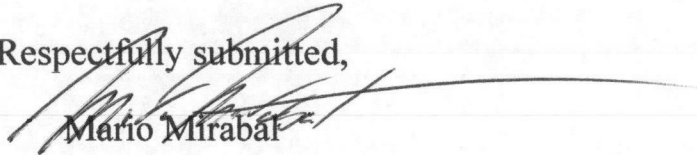
That failure has empowered KP Investments—a non-party to the original foreclosure—to assert possession based on a deed transferred in secret, during federal litigation, in violation of a bankruptcy stay, and while fraud-based objections remained pending.

To date, no court has ruled on the merits of Appellant's fraud claims. No court has squarely addressed the legitimacy of the title transfer at the heart of every suit. And no judge—state or federal—has enforced the existing constitutional protections available to prevent the judicial enforcement of fraudulently obtained property rights.

This case now presents the Eleventh Circuit with not only a matter of law but a matter of institutional integrity. The question is no longer limited to whether Deutsche Bank or KP Investments committed fraud. The question is whether the federal courts will allow themselves to become vessels through which that fraud is perfected.

Appellant respectfully moves this Court to exercise its jurisdiction not merely as a procedural safeguard, but as a constitutional imperative. Continued inaction will allow a chain of judicial avoidance to result in the denial of Appellant's constitutionally assured rights under the law — without any court ever confronting the fraud that tainted the title from its inception. That outcome would not be a legal error. It would be the institutional endorsement of theft under color of process.

Respectfully submitted,


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June 2, 2025

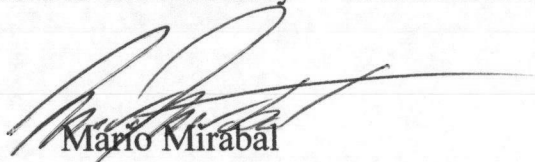
**ADDENDUM: REQUEST FOR PUBLIC RESOLUTION AND
INSTITUTIONAL TRANSPARENCY**

Appellant respectfully requests that any disposition of this motion — whether by grant, denial, coordination, or reassignment — be entered on the public record.

Given the constitutional implications, systemic suppression outlined herein, and the importance of restoring public confidence in appellate process integrity, Appellant requests that the Court's resolution not be disposed of silently or without judicial acknowledgment.

This request is made pursuant to Federal Rule of Appellate Procedure 35 and the Eleventh Circuit's Internal Operating Procedures, which require that en banc petitions be circulated to all active judges. Appellant requests that any order — including denial — be docketed with explanatory text and, where applicable, concurring or dissenting opinions.

Transparency here is not formality — it is necessity.



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CERTIFICATE OF COMPLIANCE

This motion complies with Fed. R. App. P. 32(g)(1). It was prepared in 14-point Times New Roman and contains fewer than 3,900 words.

CERTIFICATE OF SERVICE

I certify that on June 2, 2025, I mailed this motion to the Clerk of Court and to all opposing counsel as previously served in each related docket, and am filing it in:

**25-10858, 25-10862, 25-11120, 25-11182, 25-11183, 25-11254, and
25-11752**

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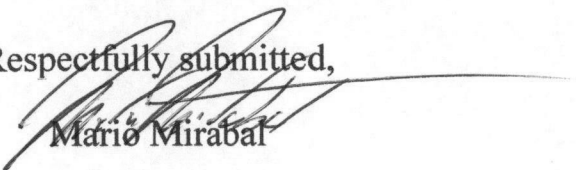
Clerk, U.S. Court of Appeals for the Eleventh Circuit

56 Forsyth Street, N.W., Atlanta, GA 30303

Each recipient was served in connection with their role in the related lower court proceedings and as counsel of record in one or more consolidated appeals.

The full filing is available to all parties via the PACER system.

Respectfully submitted,


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Jun 2, 2025



**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT**

Unified List for All Related Federal Appeals

Pursuant to 11th Cir. R. 26.1-1 through 26.1-3, the undersigned certifies that the following individuals, entities, attorneys, and judges have an interest in the outcome of this appeal or are related to the underlying and parallel proceedings:

Relator / Appellant / Petitioner

– Mario Mirabal (Pro Se)

Opposing Parties / Appellees / Plaintiffs

– Deutsche Bank National Trust Company

– PHH Mortgage Corporation (servicer)

– KP Investments Miami, LLC

-- RAS LaVrar, LLC

Attorneys for KP Investments / Deutsche Bank

– John Cunill, Esq. – The Cunill Law Firm, PA

– Kenneth Damas – formerly of Adorno & Cunill, P.A.

– Mehwish A. Yousuf – Counsel for Deutsche Bank

-- Ari Newman Counsel for Deutsche Bank

-- Matthew Marks Counsel for Deutsche Bank

Presiding Judges in Related Federal District Court Cases

- Judge Jose E. Martinez (S.D. Fla.) – Cases: 1:25-cv-20747-JEM, 1:25-cv-20746-JEM
- Judge Paul C. Huck (S.D. Fla.) – Case: 1:25-cv-20010-PCH
- Judge Jacqueline Becerra (S.D. Fla., reassigned case) – Case: 1:25-cv-20011-JEM

State Court Judges in Underlying Litigation

- Judge Javier Enriquez – 2018-018704-CA-01 (Deutsche Bank)
- Judge Brinkley -- formerly assigned
- Judge Bokor -- formerly assigned
- Judge Jason Dimitris – 2022-004706-CA-01 (KP Investments, Specific Performance)
- Judge Ariana Fajardo Orshan – 2024-022769-CA-01 (KP Investments, Ejectment)
- Judge David Miller (formerly assigned in specific performance suit)
- Judge Corali Lopez-Castro – Bankruptcy Court (adversary proceeding dismissed)

Appellate Courts & Cases (11th Circuit)

- 25-10858 – KP v. Mirabal (District: 1:25-cv-20688-JEM)
- 25-10862 – KP v. Mirabal (District: 1:25-cv-20747-JEM)
- 25-11120 – In re: Mario Mirabal (Writ re: Judge Martinez/Orshan Remand Protective Filling)

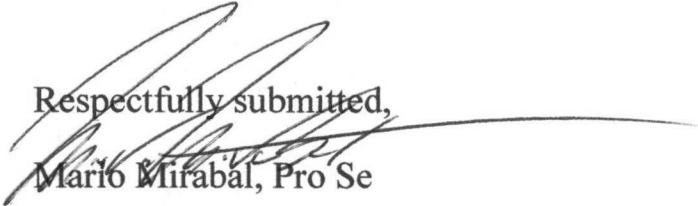
- 25-11182 – In re: Mario Mirabal (Second Writ – Protective Filing)
- 25-11183 – In re: Mario Mirabal (Writ re: Judge Huck and Case 1:25-cv-20010-PCH protective Filling)
- 25-11254 – In re: Mario Mirabal (Writ of Mandamus arising from Case No. 1:25-cv-20688-JEM Judge Jose E. Martinez)

State Appellate Court

- 3D2025-0540 – 3rd District Court of Appeal (FL) – Appeal of Orshan default judgment while under 11th District US Appeals Court jurisdiction

The undersigned affirms this list is complete and accurate to the best of his knowledge and will be updated as necessary.

Respectfully submitted,


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Case No. 25-1120-L



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